

DECISION RECORD
Documentation of NEPA Adequacy
Sulphur HMA Public Health and Safety HWY 21 Nuisance Gather
DOI-BLM-UT-C010-2015-0013-DNA

Authorities

The authority for this decision is contained in Section 1333(a) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

Plan Conformancy and Consistency

The Pinyon Management Framework Plan (1983), as amended, identifies the Sulphur Herd Management Area (HMA) as being suitable for wild horses, and allows for, "the removal of horses as required to maintain horse numbers at or below 1982 inventory levels, but not less than 1971 levels". The Warm Springs Resource Area Resource Management Plan (1987) identifies the Sulphur HMA as being suitable for wild horses and will maintain horse numbers in the HMA through "periodic removals".

Decision

It is my decision to authorize the removal of approximately 100 wild horses from a part of the Sulphur Herd Management Area which is adjacent to Highway 21 in Beaver and Millard counties, Utah. The gather would be conducted using methods described in EA-UT-040-08-19 and EA-UT-C010-2010-0048. The gather would comply with all monitoring requirements, terms, conditions and stipulations set forth in these documents.

Rationale for Decision

A Determination of NEPA Adequacy has been prepared for this action (attached) which concluded that previous analysis contained in EA-UT-040-08-19 and EA-UT-C010-2010-0048 are still relevant and adequate for the proposed action. The gather is needed to remove the horses which are causing a safety issue on Highway 21.

Protest/Appeal

This decision is effective upon issuance in accordance with 43 C.F.R. § 4770.3 (c).

The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Public notification of this decision will be considered to have occurred on the date this decision is signed. Within 30 days of this decision, a notice of appeal must be filed in the office of the Authorized Officer at 176 East DL Sargent Drive, Cedar City, UT 84721. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the Authorized Officer and/or IBLA.

Dan Fletcher Acting Field Manager
Authorized Officer

1-12-15
Date

Attachments:

DOI-BLM-UT-C010-2015-0013-DNA

Worksheet
Documentation of Land Use Plan Conformance and
Determination of NEPA Adequacy (DNA)

U.S. Department of the Interior
Utah Bureau of Land Management (BLM)

This worksheet is to be completed consistent with guidance provided in instructional text boxes on the worksheet and the 'Guidelines for Using the DNA Worksheet' located at the end of the worksheet. The signed CONCLUSION at the end of this worksheet is part of an interim step in the BLM's internal analysis process and does not constitute an appealable decision; however, it constitutes an administrative record to be provided as evidence in protest, appeals and legal procedures.

A. BLM Office: Cedar City Field Office

Proposed Action Title/Type

Sulphur HMA Public Health and Safety HWY 21 Nuisance Gather (DOI-BLM-UT-C010-2015-0013-DNA).

Location of Proposed Action

Sulphur Herd Management Area (HMA), Beaver and Millard Counties, Utah.

Description of the Proposed Action

It is proposed to capture and remove approximately 100 wild horses from part of the Sulphur Herd Management Area adjacent to Highway 21 in Beaver and Millard counties, Utah. The horses are causing a safety issue on the state highway. The gather would be conducted using methods described in EA-UT-040-08-19 and EA-UT-C010-2010-0048.

Applicant

None

B. Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans

Pinyon Management Framework Plan (1983)

Warm Springs Resource Area Plan, (1987)

Sulphur Wild Horse Herd Management Area Plan (1987)

The Pinyon MFP (1983) identifies the Sulphur HMA as being suitable for wild horses, and allows for, "the removal of horses as required to maintain horse numbers at or below 1982 inventory levels, but not less than 1971 levels" (Pinyon MFP Wild Horse Amendment). The Warm Springs Resource Area RMP (1987) identifies the Sulphur HMA as being suitable for wild horses and will maintain horse numbers in the HMA through "periodic removals". The Sulphur HMAP (1987) identifies the HMA boundaries

in both of the land use plans as suitable for wild horses and states the removal objective for both land use plans as "remove excess wild horses from the Sulphur HMA when the population of adult horse, those two and older, reaches the upper level of 180 horses".

C. Identify the applicable NEPA document(s) and other related documents that cover the proposed action.

Sulphur Wild Horse Gather and Removal EA-UT-040-08-19, approved November 7, 2008. Sulphur Herd Gather Treat and Release Plan, Fertility Control with Limited Removal EA-UT-C010-2010-0048, approved November 4, 2010.

D. NEPA Adequacy Criteria

1. Is the current proposed action substantially the same action (or is a part of that action) as previously analyzed?

☒ Yes

☐ No

Documentation of answer and explanation: EA-UT-040-08-19 addressed the gather and removal of excess wild horses in the Sulphur Herd Management Area. This assumed the removal of about 355 horses, although it states that these numbers could be increased to meet Appropriate Management Level (AML) objectives. Full gather numbers were never achieved for that action. The current proposed action would gather approximately 100 wild horses that are causing safety issues on Highway 21. Impacts from this gather would be expected to fall well within the range of impacts described in EA-UT-040-08-19. The proposed action is also similar to that analyzed in EA-UT-C010-2010-0048. In that action, removal of horses was authorized in order to achieve AML. In addition, horses have been removed in order to contain them to herd management areas. The horses identified in the current action are outside the HMA, on the highway, creating a hazard.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, resource values, and circumstances?

☒ Yes

☐ No

Documentation of answer and explanation: The range of alternatives analyzed in the environmental assessment for the Sulphur Wild Horse Gather and Removal (EA-UT-040-08-19) is appropriate with respect to the current proposed action, given current environmental concerns, resource values, and circumstances. The EA analyzed a reasonable range of alternatives including gather and removal of horses with fertility

control, gather and removal of horses without fertility control, and not gathering horses. The EA was completed November 7, 2008, and no new issues have been raised warranting additional alternatives. In addition, more alternatives were analyzed in EA-UT-C010-2010-0048, Sulphur Herd Gather, Treat, Release with Limited Removal. This EA analyzed a reasonable range of alternatives including using fertility control as a way to slow herd growth. The EA, however, acknowledged a continued need for limited removal in certain circumstances.

3. Is existing analysis adequate in light of any new information or circumstances (including, for example, riparian proper functioning condition [PFC] reports; rangeland health standards assessments; Unified Watershed Assessment categorizations; inventory and monitoring data; most recent Fish and Wildlife Service lists of threatened, endangered, proposed, and candidate species; most recent BLM lists of sensitive species)? Can you reasonably conclude that all new information and all new circumstances are insignificant with regard to analysis of the proposed action?

☒ Yes

☐ No

No new information or circumstances are applicable which would convey a different picture of the affected environment and environmental impacts.

The U.S. Fish and Wildlife Service list of threatened, endangered, proposed, and candidate species has been updated since the EAs were completed. Species added to the Beaver County list include Frisco buckwheat, Frisco clover, and Ostler's peppergrass. These plants are USFWS candidates; however, they are endemic to the Frisco Mountains and do not occur within the project area.

4. Do the methodology and analytical approach used in the existing NEPA documents(s) continue to be appropriate for the current proposed action?

☒ Yes

☐ No

Documentation of answer and explanation: The methodologies and analytical approach are appropriate for the proposed action. The proposed action describes the gather and removal of more horses than are being proposed here. The modeling methodologies and rationale for analysis are appropriate for the current proposed action.

5. Are the direct and indirect impacts of the current proposed action substantially unchanged from those identified in the existing NEPA document(s)? Do the existing NEPA documents analyze impacts related to the current proposed action at a level

of specificity appropriate to the proposal (plan level, programmatic level, project level)?

☒ Yes

☐ No

Documentation of answer and explanation: The direct and indirect impacts are substantially unchanged from those identified in EA-UT-040-08-19 and EA-UT-C010-2010-0048. The current proposal would be, in essence, a subset of the previous EAs.

6. Are the reasonably foreseeable cumulative impacts that would result from the implementation of the proposed action substantially unchanged from those identified in the existing NEPA document(s)?

☒ Yes

☐ No

Documentation of answer and explanation: The current proposed action would not change the cumulative impact analysis. No unanalyzed relevant activities have been implemented or projected since the existing NEPA document was completed. The proposed action would not change the documented impacts to any affected resources.

7. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

☒ Yes

☐ No

Documentation of answer and explanation: The public involvement for the EAs included posting on the Environmental Notification Bulletin Board (ENBB) and conducting a public meeting. This DNA has also been posted on the ENBB.

E. Interdisciplinary Analysis

See the attached Interdisciplinary Team Checklist.

F. Mitigation Measures: No other mitigation measures have been identified other than those developed as part of the proposed actions of EA-UT-040-08-19 and EA-UT-C010-2010-0048.

CONCLUSIONS

Based on the review documented above, I conclude that:

Plan Conformance:

- ☒ This proposal conforms to the applicable land use plan.
- ☐ This proposal does not conform to the applicable land use plan

Determination of NEPA Adequacy

- ☒ The existing NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.
- ☐ The existing NEPA documentation does not fully cover the proposed action. Additional NEPA documentation is needed if the project is to be further considered.

Dan Fletcher Acting Field Manager
Signature of the Authorized Officer

1-12-15
Date

ATTACHMENTS:

Interdisciplinary Team Checklist

Interdisciplinary Team Analysis Record Checklist

Project Title: Sulphur HMA Public Health and Safety HWY 21 Nuisance Gather

NEPA Log Number: (DOI-BLM-UT-C010-2015-0013-DNA)

File/Serial Number:

Project Leader: Chad Hunter

DETERMINATION OF STAFF: *(Choose one of the following abbreviated options for the left column)*

NP = not present in the area impacted by the proposed or alternative actions

NI = present, but not affected to a degree that detailed analysis is required

PI = present with potential for relevant impact that need to be analyzed in detail in the EA

NC = (DNAs only) actions and impacts not changed from those disclosed in the existing NEPA documents cited in Section D of the DNA form.

The rationale column should include NI and NP discussions.

RESOURCES AND ISSUES CONSIDERED:

Determination	Resource	Rationale for Determination	Signature	Date
NC	Air Quality	Previous analysis adequate (PAA) from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NP	Areas of Critical Environmental Concern	None within Field Office boundaries.	Dave Jacobson	12-5-2014
NC	Cultural Resources	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Jamie Palmer	12/16/14
NC	Greenhouse Gas Emissions	PAA from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NC	Environmental Justice	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Chad Hunter	12/2/14
NP	Farmlands (Prime or Unique)	PAA from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NC	Fish and Wildlife	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	S. Whitfield	12/04/14
NC	Floodplains	PAA from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NC	Fuels/Fire Management	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	S Peterson	12/4/14
NC	Geology / Mineral Resources/Energy Production	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	E. Ginouves	12/3/14
NC	Hydrologic Conditions	PAA from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NC	Invasive Species/Noxious Weeds	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Jessica Bulloch	12/10/14
NC	Lands/Access	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	B. Johnson	12/10/14
NC	Livestock Grazing	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Chad Hunter	12/2/14

Determination	Resource	Rationale for Determination	Signature	Date
NC	Migratory Birds	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	S. Whitfield	12/04/14
NC	Native American Religious Concerns	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Jamie Palmer	12/16/14
NC	Paleontology	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	E. Ginouves	12/2/14
NC	Rangeland Health Standards	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Chad Hunter	12/2/14
NC	Recreation	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Dave Jacobson	12-5-2014
NC	Socio-Economics	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Chad Hunter	12/2/14
NC	Soils	PAA from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NC	Special Status Plant Species	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Jeff Reese	12/10/14
NC	Special Status Animal Species	See Attached Wildlife Technical Report	S. Whitfield	12/04/14
NC	Wastes (hazardous or solid)	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	R. Peterson	12/04/14
NC	Water Resources/Quality (drinking/surface/ground)	PAA from EA-UT-040-08-19 and EA-UT-C010-2010-0048.	C. Egerton	12/10/14
NC	Wetlands/Riparian Zones	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	A. Stephens	12/10/14
NP	Wild and Scenic Rivers	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Dave Jacobson	12-5-2014
NP	Wilderness/WSA	The project area is not within any WSA or Wilderness.	Dave Jacobson	12-8-2014
NC	Woodland / Forestry	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	J. Sathe	12/10/14
NC	Vegetation	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Chad Hunter	12/1/14
NC	Visual Resources	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Dave Jacobson	12-5-2014
NC	Wild Horses and Burros	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Chad Hunter	12/2/14
NC	Lands with Wilderness Characteristics	Previous analysis adequate (PAA) from in EA-UT-040-08-19 and EA-UT-C010-2010-0048.	Dave Jacobson	12-5-2014

FINAL REVIEW:

Reviewer Title	Signature	Date	Comments
Environmental Coordinator	<i>Maria Khoury</i>	1/12/15	
Authorized Officer	<i>Dan Fletcher</i>	1-12-15	

**BLM Cedar City Field Office - Wild Horse and Burro
Sulphur HWY 21 Public Safety Wild Horse Gather**

**Bureau of Land Management
U.S. Department of the Interior**



